



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 643 OF 2024

Sheikh Tausif Sheikh Daulat and another Vs State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.M. Raoka, counsel for applicants.

Mr. N.R.Rode, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 07/08/2024.

1. The applicants came to be arrested on 21/04/2024, in connection with Crime No. 284/2024 registered with Police Station Umarkhed, District Yavatmal for the offence punishable under Sections 304-B, 306 read with Section 34 of the Indian Penal Code, 1860.

2. The applicant No.1 is the husband of the deceased, and the applicant No.2 is the brother-in-law. The crime is registered on the basis of a report lodged by the brother of the deceased, namely Sheikh Muzamil Sheikh Khalid, alleging that the marriage of his sister, namely Reshma, was performed with the applicant No. 1, and after marriage, she resumed cohabitation at their house, but she was not treated well, and continuously, she was harassed by the demand of Rs. 50,000/-. On that count, she was continuously assaulted and abused. Being fed up with the harassment at the hands of the present applicants, she committed suicide by hanging herself on 20/04/2024. On the basis of said report, police have registered the crime against the present applicants.

3. Learned counsel for the applicants submitted that, as far as the harassment is concerned, the marriage was performed on 06/03/2019, thereafter, the deceased had two daughters by the said wedlock. Till the birth of both daughters, there was no complaint by the deceased as to the harassment. As the deceased has committed suicide for some other reasons, the informant, taking disadvantage of the same, filed this false report. He submitted that now, the investigation is practically completed, though charge-sheet is not filed, further incarceration of the present applicants is not required, and they would abide the conditions imposed by this Court.

4. Learned APP strongly opposed the said application on the ground that the deceased was harassed to the extent that she was driven to commit suicide. He submitted that the statements of the witnesses disclose that death of the deceased is caused in a suspicious circumstances in the house, i.e. in the matrimonial house. The death of the deceased is due to hanging. The statement further shows that the deceased was continuously harassed, and being fed up with the same, she has committed suicide. If the applicants are released on bail, they will tamper with the prosecution evidence. In view of that, the application deserves to be rejected.

5. After hearing learned counsel for the applicants and learned APP for the State, perused the investigation papers, from which it reveals that the marriage of the deceased and

applicant No.1 was performed on 06/03/2019 thereafter, the deceased resumed cohabitation, and she had two small daughters from the said wedlock.

6. As far as the previous complaints is concerned, there is no material to show that the deceased has made prior complaints regarding the harassment. The disclosure by the deceased, as per the recitals of the FIR regarding the said harassment, is not mentioned in the FIR. It is only alleged that after the marriage she resumed the cohabitation, she was continuously harassed and ill-treated by the present applicants. The 164 statements of the informant was also recorded, wherein also, the similar allegations are made against present applicants. At this stage, the evaluation of the evidence is not required only considerations for grant of bail, whether the applicants would be available for trial and if the applicants are released on bail, they would tamper the prosecution evidence.

7. As far as the considerations for bail are concerned, the gravity of the offence, and the availability of the applicants for the trial, and whether there is an apprehension of tampering of the witnesses are to be looked into. After considering the allegations against the present applicants, it is a consistent statement that she was assaulted and abused by the present applicants. Thus, the allegations appear to be general in nature. Specific instances are not narrated by the informant as to the harassment, assault, or abuse of the deceased.

8. As far as Section 306 of the Indian Penal Code, 1860 is concerned, which was analyzed time and again by the Hon'ble Apex Court. The Hon'ble Apex Court in the case of *Shabbir Hussain vs. The State of Madhya Pradesh [(2021) 17 SCC 807]* wherein it is observed that, in order to bring a case within the provisions of Section 306 of the IPC, there must be a case of suicide and in the commission of the said offence the person who is said to have abetted the commission of suicide must have played an active role by an act of instigating or by doing a certain act to facilitate the commission of suicide. The Supreme Court further goes on to observe that mere harassment without any positive action on the part of the accused proximate to the time of occurrence which led to the suicide would not amount to an offence under Section 306 of IPC. Whether there was a harassment which drive her to commit suicide, is a matter of evidence. At this stage, considering the investigation is practically completed, though charge-sheet is not filed and the statements of relevant witnesses are recorded, further incarceration of the present applicants is not required. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:

- a] The criminal application is allowed.
- b] The applicants – (1) Sheikh Tausif Sheikh Daulat (2) Sheikh Asif Sheikh Daulat shall be released on bail, in connection with Crime

No. 284/2024 registered with Police Station Umarkhed, District Yavatmal for the offence punishable under Sections 304-B, 306 read with Section 34 of the Indian Penal Code, 1860, on executing P.R. Bond of Rs. 25,000/- each with one solvent surety in the like amount.

- c] The applicants shall not enter into the vicinity of village Umarkhed, District Yavatmal till culmination of the trial.
- d] The applicants shall not induce threat or promise any witnesses who are acquainted with the facts of the present case.
- e] The applicants shall attend the concerned Police Station once in a week on Sunday between 10.00 a.m. to 01.00 p.m. till filing of the charge-sheet.
- f] The applicants shall attend the proceedings before the trial Court after filing of the charge-sheet without seeking any exemption, unless there are exceptional circumstances.

Humdast is granted.

[URMILA JOSHI-PHALKE, J.]